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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,535

05/25/2006

Felix Von Limburg

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EXAMINER

BODAWALA, DIMPLE N

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

10/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/563,535	VON LIMBURG, FELIX	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dimple N. Bodawala	1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10 and 12-26 is/are rejected.
- 7) ☒ Claim(s) 8, 9 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/22/2005</u>  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Specification*

2. The disclosure is objected to because of the following informalities: *On page 6, the phrase "stop" is involved with multiple reference nos. such as Reference No. 14 and Reference No. 4 (See lines 15-21).*

Appropriate correction is required.

### *Claim Objection*

3. Claims 2, 9, 10, 11, 19, 21, 22, 24, and 26 are objected because they have some typographical errors.
4. Claim 2 is objected because claim 2 discloses claimed limitation such as "the side of the magnet" in line 3, which is supposed to be "a side of the magnet".
5. Claim 9 is objected because claim 9 discloses claimed limitations such as "the magnetic force" in line 3 and "the weight of the magnet" in line 5, which supposed to be "a magnetic force" and "a weight of the magnet".

6. Claim 11 is objected because claim 11 discloses claimed limitation such as "the major part of the magnet" in line 3, which is supposed to be "a major part of the magnet".

7. Claim 21 is objected because claim 21 discloses claimed limitation such as "the opening" in line 3, which is supposed to be "an opening".

8. Claim 26 is objected because claim 26 discloses claimed limitation such as "the swivel motion" in line 3, which is supposed to be "a swivel motion".

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

10. Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 10 is vague and indefinite because it is unclear about which upper surface can be brought into an operative connection with the magnet, and thus the claimed limitation such as "its upper surface" makes the scope of the subject matter indeterminate.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 1-6, 12, 14-20, 23, 25, and 26 are rejected under 35 U.S.C. 103(a) as being obvious over Schreyer et al. (U S Patent No. 7,175,153) in view of Schule (U S Patent No. 5,975,483).

15. Schreyer et al. ('153) discloses a magnetic device with a shuttering means as a holding device, preferably shuttering device comprises a magnet (2) that can be transferred from the locking position (See abstract), in which the magnet is preferably operatively connected to a magnetizable shuttering support so as to magnetically act upon it, preferably by abutting the

shuttering support (See abstract), to a detach position in which the magnet is spaced apart from the shuttering support (See abstract). It further teaches that the device is designed as frame (See col.2 lines 59-63). It further teaches that the device grips over the magnet by the section (8).

16. It further discloses a lift-off means (3) as an actuation means is provided with the magnet , wherein the magnet (2) can be transferred from its locking position to its detach position (See figure 1), wherein the actuation means (3) comprises a lever (11) that can be engaged with the magnet (2) for transferring from the locking position to detaching position, or the lever (11) is engaged with the magnet (2) and is supported at the frame so as to be rotatable (See figure 1).

17. It further discloses a lever swivel pin (9), wherein the lever (11) is rotatably mounted to the frame (See col.6 lines 48-59). It further teaches that the magnet is arranged within the shuttering device (See figures 23, 24), wherein the shape of the magnet is parallelepiped (See col.11 lines 43-45), which would have been obvious to have the shape of the shuttering device is essentially U-shaped as seen from the cross section. It further teaches that the lever is firmly interconnected to the magnet (See col.12 lines 1-2,11-13), which can be removed at least in the locking position of the magnet. It further discloses a stop (28) together with the cover, wherein the stop (28)

prevents the rest-on means from becoming detached from the retaining device, which would have been obvious to limit the movement of the magnet from the detaching position to the locking position (See col.8 lines 50-63).

18. Schreyer et al. ('153) discloses all claimed structural limitations as discussed above but fails to teach or suggest a swivel pin and bearing section.

19. In the analogous art, Schule ('483) discloses swiveling clamping jaw (4,5) as a swivel pin is swivel-mounted on a slide (10), which in turn, can be fixed by clamping in any position on the carrier (See abstract, figure 1), which inherently teaches the locking position to detaching position in a swiveled manner. Figure 1 further teaches that the swivel pin (4) is arranged at the side (7) of the carrier. It further discloses an actuating element for swiveling the swivel clamping jaw (4) (See col.1 lines 10-25). Figure 5 teaches that the swivel pin is formed by a swivel shaft mounted at the carrier. It further teaches that the swivel pin (4) is arranged in a bearing section (103) which is releasably connected with the carrier (See figure 3).

20. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Schreyer ('153) by providing a swivel pin because such an alignment is involved to swivel about an axis oriented transversely to the carrier by means of a wedge, eccentric or similar adjusting element (See col.1 lines 10-25), to develop the force

component approximately in the direction of the orientation of the carrier by the swivel moment (See col.3 lines 20-24), and further to arrange to the magnet between the lever swivel pin and the swivel pin as suggested by Schule ('483).

21. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Schreyer ('153) by providing a bearing section for disposing the swivel pin during the operation for carrying out smoothly the swivel moment of the swivel pin with the aid of the wedge or eccentric (See col.2 lines 53-63) as suggested by Schule ('483).

22. Claims 7, 10, 13, 21, 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schreyer et al. (U S Patent No. 7,175,153) in view of Schule (U S Patent No. 5,975,483) as applied to claims 1-6, 12, 14-20, 23, 25, and 26 above, and further in view of Vappula (U S Patent No. 7,021,601).

23. Schreyer et al. ('153) discloses all claimed structural limitations as discussed above but fails to teach or suggest a locking means and an opening.

24. In the analogous art, Vappula ('601) comprises molding device as a holding device which comprises a locking means (5), which is holding the magnets in its detach position (See figure 1c and 2c). It further teaches that the holding device (1) comprises an opening (6) through which the magnet (2) is accessible at least in its locking position (See figures 2a-2c). Figures 2a-2c



teach that the lever (7) protrudes inwardly through the opening (6) and the lever (7) can be operated from the outside the device for transferring the magnet from the locking position to its detach position, wherein the opening (6) is arranged at an upper surface of the device. Figures further teaches that the magnet protrudes from the opening of the device by section in the detach position. It further teaches that the upper surface of the magnet can be brought into an operative connection with the locking means (5) (See figure 1c).

25. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Schreyer ('153) by providing a locking means because such an alignment is involved to hold the magnet during the detaching position as suggested by Vappula ('601).

26. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to modify the invention of Schreyer ('153) by providing an opening in the upper surface of the device because such an alignment is involved to access the magnet during the locking position as suggested by Vappula ('601).

*Allowable Subject Matter*

Art Unit: 1791

27. Claims 8, 9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

28. The following is a statement of reasons for the indication of allowable subject matter:

29. The prior arts of record fail to teach or suggest a holding device as defined in claims 8,9 and 11 of the instant application. The closet prior arts, Schreyer et al. (U S Patent No. 7,175,153), and Vappula (U S Patent No. 7,021,601) fail to teach or suggest locking means comprises a magnetizable or magnetic section as defined in claim 8, the magnetic force between the locking means and the magnet is slightly larger than the restoring moment generated at least by the weight of the magnet and forcing the magnet into the locking position as defined in claim 9, and the major part of the magnet is arranged between the swivel pin and the locking means as defined in claim 11 of the instant application.

### *Conclusion*


30. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (See PTOL-892 for holding device).

31. Smit et al. (U S Patent No. 2,869,047) discloses a permanent magnetic holding device and mechanical detaching position.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dimple N. Bodawala whose telephone number is (571) 272-6455. The examiner can normally be reached on Monday - Friday at 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra N. Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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